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Remarks/Arguments

Claims 6-10 have been withdrawn from consideration by the Examiner. Applicant retains the right to file a divisional application in respect thereof.

Undersigned confirms the election noted at page 3 of the Office Action without traverse.

The Examiner contends that the declaration filed with the subject application is defective and requires the filing of a new declaration correcting the alleged defect. The rejection is respectfully traversed.

In the contention, the Examiner advises as follows.

...The declaration qualifies compliance by only reciting section 37 CFR 1.56(a) in the declaration. However, 37 CFR 1.63 doesn't qualify compliance to only 37 CFR 1.56(a), but requires recitation of compliance with 37 CFR 1.56. (emphasis added)

In the declaration filed with this application, applicant states as follows.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

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37 CFR 1.56 has parts (a), (b), (c) and (d).

Part (a) of 37 CFR 1.56 contains the language of the declaration on file.

Part (b) of 37 CFR 1.56 does not state any requirement beyond part (a), simply identifying information which is material to patentability.

Part (c) and (d) of 37 CFR 1.56 do not state any requirement beyond part (a), simply defining individuals encompassed by part (a).

Reference to part (a) in the declaration is accordingly not a qualification of 37 CFR 1.56, as the Examiner suggests. Part (a) is the only requiremental part of 37 CFR 1.56.

More significantly, reference to part (a) of 37 CFR 1.56 is manifestly a reference to the section and, indeed, is a more definitive reference to the entire requirements of the section, which are stated only in part (a).

Reconsideration is requested.

The objection to claim 1 is addressed in the above rendition of new independent claim 11.

All of the cited prior art patents have been carefully considered, particularly those relied on in the several rejections of original claim 1 as being anticipated under Section 102. These

rejections, while traversed in respect of the new claims, are not addressed since the rejections are submitted as untenable in respect of the new claims.

Claim 11 reads as follows.

11. In combination:

(a) a mounting plate defining first and second openings therethrough, each of said first and second openings being bounded by said mounting plate; and

(b) a cable tie including a head and a strap extending from said head to a cable tie free end, said strap defining an arcuate surface in underlying relation to said mounting plate, a first extent of said strap being continuous with said arcuate surface and resident in said first mounting plate first opening and a second extent of said strap being contiguous with said arcuate surface and extending to said free end and resident in said second mounting plate opening, said free end being accessible exteriorly of said mounting plate.

None of the cited art deals with the combination of a cable tie and a mounting plate having plural bounded apertures, wherein an arcuate surface of the strap of the tie underlies the mounting plate and first and second extents of the strap contiguous with the arcuate surface are separately resident in the mounting plate apertures. Claim 11 is accordingly submitted as patentable.

Reliance is placed on In re Fine, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) and Ex parte Kochan, 131 USPQ 204 (Bd. App. 1960) for allowance of the dependent claims, since they differ in scope from parent independent claim 11 submitted as patentable.

Patentability of all claims is believed to have been established and, as such, it is submitted that this application is now in condition for allowance. Indication to that effect is solicited.

Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone undersigned counsel for applicant at (212) 682-9640.

This paper is being filed by facsimile transmission to 1-703-872-9306 on this 10th day of September, 2004 and is accordingly submitted as timely filed within three-months from the mailing date of the Office Action, namely, June 10, 2004.

Respectfully submitted,


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